



General Assembly

***Substitute Bill No. 280***

***February Session, 2014***



***AN ACT CONCERNING UNINSURED AND UNDERINSURED  
MOTORIST COVERAGE OFFSETS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-336 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) (1) Each automobile liability insurance policy shall provide  
4 insurance, herein called uninsured and underinsured motorist  
5 coverage, in accordance with the regulations adopted pursuant to  
6 section 38a-334, with limits for bodily injury or death not less than  
7 those specified in subsection (a) of section 14-112, for the protection of  
8 persons insured thereunder who are legally entitled to recover  
9 damages from owners or operators of uninsured motor vehicles and  
10 underinsured motor vehicles and insured motor vehicles, the insurer  
11 of which becomes insolvent prior to payment of such damages,  
12 because of bodily injury, including death resulting therefrom. Each  
13 insurer licensed to write automobile liability insurance in this state  
14 shall provide uninsured and underinsured motorists coverage with  
15 limits requested by any named insured upon payment of the  
16 appropriate premium, provided each such insurer shall offer such  
17 coverage with limits that are twice the limits of the bodily injury  
18 coverage of the policy issued to the named insured. The insured's  
19 selection of uninsured and underinsured motorist coverage shall apply

20 to all subsequent renewals of coverage and to all policies or  
21 endorsements which extend, change, supersede or replace an existing  
22 policy issued to the named insured, unless changed in writing by any  
23 named insured. No insurer shall be required to provide uninsured and  
24 underinsured motorist coverage to (A) a named insured or relatives  
25 residing in his household when occupying, or struck as a pedestrian  
26 by, an uninsured or underinsured motor vehicle or a motorcycle that is  
27 owned by the named insured, or (B) any insured occupying an  
28 uninsured or underinsured motor vehicle or motorcycle that is owned  
29 by such insured.

30 (2) Notwithstanding any provision of this section, each automobile  
31 liability insurance policy issued or renewed on and after January 1,  
32 1994, shall provide uninsured and underinsured motorist coverage  
33 with limits for bodily injury and death equal to those purchased to  
34 protect against loss resulting from the liability imposed by law unless  
35 any named insured requests in writing a lesser amount, but not less  
36 than the limits specified in subsection (a) of section 14-112. Such  
37 written request shall apply to all subsequent renewals of coverage and  
38 to all policies or endorsements that extend, change, supersede or  
39 replace an existing policy issued to the named insured, unless changed  
40 in writing by any named insured. No such written request for a lesser  
41 amount shall be effective unless any named insured has signed an  
42 informed consent form that shall contain: (A) An explanation of  
43 uninsured and underinsured motorist insurance approved by the  
44 commissioner; (B) a list of uninsured and underinsured motorist  
45 coverage options available from the insurer; and (C) the premium cost  
46 for each of the coverage options available from the insurer. Such  
47 informed consent form shall contain a heading in twelve-point type  
48 and shall state: "WHEN YOU SIGN THIS FORM, YOU ARE  
49 CHOOSING A REDUCED PREMIUM, BUT YOU ARE ALSO  
50 CHOOSING NOT TO PURCHASE CERTAIN VALUABLE  
51 COVERAGE WHICH PROTECTS YOU AND YOUR FAMILY. IF YOU  
52 ARE UNCERTAIN ABOUT HOW THIS DECISION WILL AFFECT  
53 YOU, YOU SHOULD GET ADVICE FROM YOUR INSURANCE

54 AGENT OR ANOTHER QUALIFIED ADVISER."

55 (b) An insurance company shall be obligated to make payment to its  
56 insured up to the limits of the policy's uninsured and underinsured  
57 motorist coverage after the limits of liability under all bodily injury  
58 liability bonds or insurance policies applicable at the time of the  
59 accident have been exhausted by payment of judgments or settlements,  
60 but in no event shall the total amount of recovery from all policies,  
61 including any amount recovered under the insured's uninsured and  
62 underinsured motorist coverage, exceed the limits of the insured's  
63 uninsured and underinsured motorist coverage. In no event shall there  
64 be any reduction of uninsured or underinsured motorist coverage  
65 limits or benefits payable (1) for amounts received by the insured for  
66 Social Security disability benefits paid or payable pursuant to the  
67 Social Security Act, 42 USC Section 301, et seq., or (2) with respect to an  
68 automobile liability insurance policy issued or renewed on or after  
69 October 1, 2015, (A) for amounts paid by or on behalf of any tortfeasor  
70 for bodily injury to anyone other than individuals insured under the  
71 policy against which the claim is made, or (B) for amounts paid by or  
72 on behalf of any tortfeasor for property damage. The limitation on the  
73 total amount of recovery from all policies shall not apply to  
74 underinsured motorist conversion coverage purchased pursuant to  
75 section 38a-336a.

76 (c) Each automobile liability insurance policy issued on or after  
77 October 1, 1971, which contains a provision for binding arbitration  
78 shall include a provision for final determination of insurance coverage  
79 in such arbitration proceeding. With respect to any claim submitted to  
80 arbitration on or after October 1, 1983, the arbitration proceeding shall  
81 be conducted by a single arbitrator if the amount in demand is forty  
82 thousand dollars or less or by a panel of three arbitrators if the amount  
83 in demand is more than forty thousand dollars.

84 (d) Regardless of the number of policies issued, vehicles or  
85 premiums shown on a policy, premiums paid, persons covered,  
86 vehicles involved in an accident, or claims made, in no event shall the

87 limit of liability for uninsured and underinsured motorist coverage  
88 applicable to two or more motor vehicles covered under the same or  
89 separate policies be added together to determine the limit of liability  
90 for such coverage available to an injured person or persons for any one  
91 accident. If a person insured for uninsured and underinsured motorist  
92 coverage is an occupant of a nonowned vehicle covered by a policy  
93 also providing uninsured and underinsured motorist coverage, the  
94 coverage of the occupied vehicle shall be primary and any coverage for  
95 which such person is a named insured shall be secondary. All other  
96 applicable policies shall be excess. The total amount of uninsured and  
97 underinsured motorist coverage recoverable is limited to the highest  
98 amount recoverable under the primary policy, the secondary policy or  
99 any one of the excess policies. The amount paid under the excess  
100 policies shall be apportioned in accordance with the proportion that  
101 the limits of each excess policy bear to the total limits of the excess  
102 policies. If any person insured for uninsured and underinsured  
103 motorist coverage is an occupant of an owned vehicle, the uninsured  
104 and underinsured motorist coverage afforded by the policy covering  
105 the vehicle occupied at the time of the accident shall be the only  
106 uninsured and underinsured motorist coverage available.

107 (e) For the purposes of this section, an "underinsured motor vehicle"  
108 means a motor vehicle with respect to which the sum of the limits of  
109 liability under all bodily injury liability bonds and insurance policies  
110 applicable at the time of the accident is less than the applicable limits  
111 of liability under the uninsured motorist portion of the policy against  
112 which claim is made under subsection (b) of this section.

113 (f) Notwithstanding subsection (a) of section 31-284, an employee of  
114 a named insured injured while occupying a covered motor vehicle in  
115 the course of employment shall be covered by such insured's otherwise  
116 applicable uninsured and underinsured motorist coverage.

117 (g) (1) No insurance company doing business in this state may limit  
118 the time within which any suit may be brought against it or any  
119 demand for arbitration on a claim may be made on the uninsured or

120 underinsured motorist provisions of an automobile liability insurance  
 121 policy to a period of less than three years from the date of accident,  
 122 provided, in the case of an underinsured motorist claim the insured  
 123 may toll any applicable limitation period (A) by notifying such insurer  
 124 prior to the expiration of the applicable limitation period, in writing, of  
 125 any claim which the insured may have for underinsured motorist  
 126 benefits and (B) by commencing suit or demanding arbitration under  
 127 the terms of the policy not more than one hundred eighty days from  
 128 the date of exhaustion of the limits of liability under all automobile  
 129 bodily injury liability bonds or automobile insurance policies  
 130 applicable at the time of the accident by settlements or final judgments  
 131 after any appeals.

132 (2) Notwithstanding the provisions of subdivision (1) of this  
 133 subsection, in the case of an uninsured motorist claim, if the motor  
 134 vehicle of a tortfeasor is an uninsured motor vehicle because the  
 135 automobile liability insurance company of such tortfeasor becomes  
 136 insolvent or denies coverage, no insurance company doing business in  
 137 this state may limit the time within which any suit may be brought  
 138 against it or any demand for arbitration on a claim may be made on  
 139 the uninsured motorist provisions of an automobile liability insurance  
 140 policy to a period of less than one year from the date of receipt by the  
 141 insured of written notice of such insolvency of, or denial of coverage  
 142 by, such automobile liability insurance company.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	October 1, 2015	38a-336
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**INS**      *Joint Favorable Subst.*